

Killing two birds with one stone: insights into the recent counterterrorism legislation in Cameroon

By Gerard Emmanuel Kamdem Kanga*

Abstract: The paper reviews counterterrorism legislation in Cameroon in relation to (in-) security, human rights and the rule of law. In December 2014, to step up the fight against the terrorist group Boko Haram, the Parliament of Cameroon enacted a new law on the suppression of acts of terrorism. However, owing to both its suppressive nature and serious threat to the security and rights of the people it claims to protect, the content of this law appears to be controversial. The author attempts to break down this legislation and argues that the distinctive feature of the recent counterterrorism legislation in Cameroon is the disappearance of the distinction between the perpetrators of terrorist activities and civilian populations as well as political opponents involved in national protests both being subject to capital punishment. In so doing, the author provides critical insights into a unique anti-terror universe, that is, the current socio-political situation in Cameroon. From the recent unrests and arrests following the controversial outcome of the 2018 presidential elections, to the crisis in the English speaking regions of Cameroon as well as the (bloody) suppression of journalists, emphasis is put on the extent to which the current legal architecture of the state has been overshadowed by a fearsome piece of legislation coupled with the hyperactivity of military judges who have been busy leading Kafkaesque trials almost on a full-time basis. In the end, what is noticeable is the extent to which the counterterrorism legislation of December 2014 unveiled itself as a suppressive device aiming at protecting the regime instead of a security arsenal for the sake of the society.

A. Introduction

My main concern in this paper is to assess the counterterrorism legislation in Cameroon in relation to (in-) security, human rights and the rule of law. Since 2013, the country has been subject to the incursion of the extremist movement Boko Haram in its northern region bordering Nigeria. Boko Haram, currently a branch of Islamic State (also known as IS, ISIS, ISIL or Daech) was indeed renamed 'Islamic State West Africa Province.' Islamic State is a

* (LLD, LLM, Pretoria) (Maitrise, Yaounde II) (Associate degree, Bachelor, Dschang) Coordinator, Research and Postgraduate Division, Free State Centre for Human Rights, University of the Free State. email: gerard.emmanuel@gmail.com.

fearsome extremist organisation that also operates in Syria, Iraq and Libya. This organisation appears to have the capability to remotely perpetrate terrorist attacks across the world such as those that occurred in Europe especially in France, Germany, Sweden, London, Belgium and Russia.¹ Boko Haram which rose and developed in Nigeria crossed into Cameroon and has been the key element of insecurity by spreading death, organising suicide attacks, kidnappings, recruiting militants and stealing livestock. The consequences for peace, human security, socio-economic and political life of the state are considerable. To counter the extremist group, the government in Cameroon has been relying on its local army but also on regional alliances (Chad, Nigeria and Niger) and the support of global partners including the United States, France and Russia. One of the main concerns in dealing with the extremist organisation Boko Haram remains the unspeakable violence to which the inhabitants of the northern region of Cameroon have been subject to by those who are supposed to protect them, namely the security forces. A testimony recorded by Amnesty International in that area sets the scene regarding the scale of brutality perpetrated by security forces on civilian populations:

Early in the morning, we heard gunshots and thought it was Boko Haram. We were scared and fled to the bush; then people called us to say it wasn't Boko Haram, but the security forces, so we came back thinking we were safe. However, to our great surprise, those forces made us suffer even more than Boko Haram.²

Despite the amount of exceptional powers already available in the struggle against terrorism in the country, on December 2014, to step up the fight against Boko Haram, Cameroon Parliament enacted law N° 2014/028 of 23 December 2014 on the suppression of acts of terrorism. Whereas the repeated terror attacks by Boko Haram backed up the enactment of this legislation, its content became a matter of serious concerns. At first glance, the new anti-terror law was aimed at strengthening security across the state by providing a particular legal framework. Instead of this, the law on the suppression of acts of terrorism ended up reinforcing the atmosphere of insecurity owing not only to the repressive pattern enshrined in it, but also to the serious threat to the security and human rights of the people it claims to protect. Indeed, the distinctive feature of the recent Cameroon counterterrorism legislation is the disappearance of the distinction between the perpetrators of terrorist activities and civilian populations involved in national protests, both being subject to the death penalty under article 2. There is a global consensus according to which states in their struggle against terrorism must abide by their commitments under international law. When coping with an emergency situation, they are required to find the right balance between the guarantee of security and respect for public liberties and fundamental freedoms of individual citi-

- 1 The recent truck massacres in Nice, Stockholm, the axe attack in Germany and the blasts in Brussels Airport and Saint Petersburg's metro.
- 2 *Amnesty International*, Human rights under fire: Attacks and violations in Cameroon's struggle with Boko Haram, London 2015, p. 41.

zens. Despite this clarification, the situation in Cameroon appears to be a tricky one in the sense that the new exceptional measure against terrorism and violent extremism aimed more at protecting the regime in place against its own citizens than to secure the country against extremist organisations especially Boko Haram. Such manoeuvre of relying on terrorism as a pretext to crack down on human rights and reinforce the authoritarian nature of the state was already emphasised in the following terms:

*The use of force by states against their own citizens includes two main subcategories. One is the ordinary, overt legal process by which states enforce their laws. The other is the clandestine use of illegal violence by a government, designed to intimidate and terrorise citizens with the intention of preventing them from opposing the regime.*³

One of my key arguments in this paper lies in the fact that the recent anti-terror legislation in Cameroon hardly distinguishes between terrorist activities and acts of political demonstrations, namely unrests, uprisings and stoppage that normally occur as a result of socio-economic and political disagreements in a democratic society. When it is legitimate and even imperative for governments to look for appropriate remedies to cope with threats against national security, it is unfortunate that such threats can be used as an opportunistic *carte blanche* to wipe out public liberties and freedom to prevent people from challenging the political system. It is my contention that the recent Cameroon counterterrorism law is part of a cynical strategy willingly designed to kill two birds with one stone. One bird can be symbolised by instances of terrorism such as Boko Haram's activities in the northern section of the country. The other bird may involve cases of action against political opponents, human rights activists and journalists. I have in mind the events that unfolded after the recent presidential election: following peaceful demonstrations, Maurice Kamto, a political opponent along with several sympathisers who questioned the election's outcome through peaceful protests were arrested and indicted on the ground of the new counterterror law. Another instance can be illustrated by the so-called Anglophone crisis that erupted in the twilight of 2016 and that has since turned the northwest and southwest regions of the country into a no man's land characterised not by right and wrong but by claims and counter-claims. Similarly, the last instance remains connected to the idea of fundamental rights and accounts for a situation where journalists have been arrested, sentenced, tortured and even killed on the ground of the provisions of the same anti-terror law. It is within this framework that recently in June 2020 Cameroon's army confirmed the death of journalist Samuel Wazizi nearly a year following his arrest in the city of Buea in 2019, one of the two English speaking regions of the country, accusing him of associating with terrorists but denying allegations he had been tortured. In the remainder of this article, I break down this new exceptional legislation and expose the extent to which it is a suppressive device aiming at protecting the regime in place rather than a security arsenal to protect the society as one

3 Gérard Chaliand/Arnaud Blin (eds.), *The history of terrorism from antiquity to al Qaeda*, Berkeley 2007.

may have legitimately expected. First, it is crucial to understand the background to the antiterrorist law of 23 December 2014.

B. Background to the Law of 23 December 2014 on the suppression of acts of terrorism

On 2 December 2014 Parliament in Cameroon convened an extraordinary session during which bill N° 962/PPJL/AN on the suppression of acts of terrorism was introduced. To substantiate the memorandum to this bill, the government relied on two documents, namely the Convention of the Organisation of the African Unity (OAU) on the Prevention and Combating of Terrorism and Resolution 2718 of the United Nations Security Council. Yet since its adoption in 1999, the country had never ratified the OAU Convention and consequently was not a party. It is during the same parliamentary session that members of Parliament hastily ratified this Convention, prior to the enactment of the new antiterrorism legislation. Concerns can reasonably be raised regarding the sudden interest of local authorities to become party to the OAU Convention on the Prevention and Combating of Terrorism; a Convention that has been overlooked for nearly sixteen years. In reality, one of the events featuring in the background to the new anti-terror law in Cameroon was the ousting of Blaise Compaore, former president of Burkina Faso following a violent popular unrest over a bid to extend his 27-year rule. At the time, the situation in Burkina Faso was closely watched across the African continent (Congo Brazzaville, Congo Kinshasa, Burundi, Rwanda...etc.) where various heads of states have been preparing similar constitutional amendments to remain in power. In addition, the situation in Burkina Faso appeared to be a reminder of the Arab Spring revolution that started in the twilight of the year 2010 and led to the overthrow of presidents Ben Ali in Tunisia, Hosni Mubarak in Egypt and even the killing of Muhammad Gadhafi in Libya. Such events had not been gone unnoticed by President Paul Biya of Cameroon, one of the longest African rulers in office.

The overthrow of Blaise Compaore in Burkina Faso by an infuriated crowd and the Arab Spring revolution put together, appeared as some sort of a revived ghost of the brutal events that unfolded in Cameroon in 2008. As a matter of fact, the year 2008 was marked by a global financial crisis resulting in inflation and protests around the world. In Cameroon, two events emerged: the general inflation that led to what has been labelled *émeutes de la faim* [hunger's riots] and a governmental bill regarding the constitutional amendment of the section that prevented President Biya in power since 1982 to run for another term. In February 2008, several people organised peaceful protests on the streets of Cameroon to express their disagreement and oppose the bill. As a result, the BIR (Rapid Intervention Battalion), a special military unit independent from the army and under the strict command of the president of the Republic was brought in to brutally repress the protesters. This led to a systematic and unnecessary use of violence characterised by torture, extrajudicial killings and gross violations of human rights. The BIR that has the peculiarity to behave similarly to a private militia in charge of protecting the regime was never

trained to maintain public order and to settle disturbances in urban areas. This specialised army commando unit was established by decree N° 99/16 of 1 February 1999 to deal firstly with Transnational Organised Crimes perpetrated by highway robbers in various areas bordering Cameroon. As a result to their brutal reprisals during the unrests of February 2008, more than one hundred and thirty-nine people were gunned down according to a report by the National Committee of Human Rights, hundreds more according to NGOs. Such situations never led to any investigation and the soldiers of this specialised unit are not concerned about the consequences of their actions.

Connecting these developments with the new anti-terror measures in Cameroon, it is my contention that bill N° 962/PPJL/AN on the suppression of acts of terrorism appeared first of all as a device preventing the repeat of the 2008 uprisings, but also as an experimental tool, a receptacle of countermeasures against the type of unrests which led to the overthrow of Blaise Compaore in Burkina Faso and finally as some kind of talisman aiming at keeping the spirit of Arab Spring at bay. In such circumstances, the ongoing criticisms against the regime in Cameroon owing to a poor governance coupled with the cynical activities of Boko Haram in the northern region were deemed obviously a serious matter of national security but also an opportunity for the regime to kill two birds with one stone. The sequence with which events unfolded was hardly a naïve coincidence, for less than two months following the popular outburst which ousted the Burkinabe president in October 2014, Cameroon parliament dominated by the Cameroon People's Democratic Movement (CPDM) the ruling party, enacted law N° 2014/028 of 23 December 2014 on the suppression of acts of terrorism. This legislation appears to be a revived ghost of another exceptional legislation especially enacted to crack down on criticisms against the government. That was Ordinance N° 62/OF/18 of 1962 for suppressing subversion repealed in the early 1990s. This short ordinance which contained only six articles dealt with cases of 'subversion' for example the potentially extended offence of 'undermining respect for authorities' that were transferred from the magistrate courts to the military courts so that judgements with retroactive effect could not be subject to any sort of appeal from convicted people. This pattern was kindly borrowed by the law of 23 December 2014 that provides for capital punishment for the perpetrators of terrorist activities as well as for people involved in uprisings and others widespread insurrection, a measure aiming essentially to dissuade anyone intending to challenge the political system.

The counterterror law has been the object of various critics at the local level by the civil society, the media and leaders of opposition parties and at the international level by several organisations. This unfortunate step by Cameroon authorities is strongly reminiscent of the techniques used during the struggle of independence of the country when the *Union des Populations du Cameroun* (UPC), the nationalist movement was labelled terrorist owing to their violent actions to reclaim independence from the French and their local collaborators.⁴

4 For further information, see *Gerard Emmanuel Kamdem Kamga*, The origin and the development of emergency regimes in Cameroon, *Fundamina: A Journal of Legal History* 21 (2015), p. 289.

C. Pre-existing issues repackaged as acts of terrorism

This section pays close attention to some of the provisions of the law of 23 December 2014 on the suppression of acts of terrorism in Cameroon and shows how such provisions merge the borders between terrorist and non-terrorist acts. When assessing this legislation of seventeen articles, it appears that a proper definition of terrorist acts was omitted. Cameroon lawmakers have failed not only to suggest a customised definition of terrorism inspired from the local context, but also to rely on a variety of available international instruments dealing with terrorism to provide appropriate guidance. Instead, the lawmakers merely replicated the provisions of the OAU Convention that focus more in enumerating and sanctioning what amount to terrorist activities. Under the law of 23 December 2014 notably in chapter 2 entitled ‘offences and penalties’ the first article of section 2 on ‘acts of terrorism’ reads:

Whoever, acting alone as an accomplice or accessory, commits or threatens to commit an act likely to cause death, endanger physical integrity, cause bodily injury or material damage, destroy natural resources, the environment or cultural heritage with intent to:

- a) Intimidate the public, provoke a situation of terror or force the victim, the government and/or a national or international organisation to carry out or refrain from carrying out an act, adopt or renounce a particular position;*
- b) Disrupt the national functioning of public services, the delivery of essential services to the public to create a crisis situation among the public;*
- c) Create widespread insurrection in the country;*
- d) Shall be punished with the death penalty.*

These provisions were quoted verbatim from the controversial article 1(3) of the Organisation of African Unity (OAU) Convention on the Prevention and Combating of Terrorism of 1999. It is noticeable how the above provisions merge the borders between terrorist acts and other acts that may be carry out by non-terrorists. In loose terms, the vagueness of the characterisation of terrorist acts implies that protests and political demonstrations directed against the regime, such as those regularly carried out by unions, might easily be branded ‘terrorist acts.’ This claim can be substantiated by the above provisions of article 1(b) and (c) that respectively refer to the ‘disruption of the national functioning of public services, the delivery of essential services to the public to create a crisis situation among the public’ and to ‘create widespread insurrection in the country.’ These acts are typical of those perpetrated by civil society groups and other human rights organisations as a result of political disagreements. In the same vein, article 1(a) prohibits among others the situation where the government and/or a national or international organisation should not be forced to carry out or refrain from carrying out an act, adopt or renounce a particular position. Yet the rationale behind any type of unrest in a constitutional democracy is precisely to compel the government to act or refrain from adopting or renouncing to a particular position. The ultimate

purpose of the Arab Spring revolution was to compel presidents Ben Ali of Tunisia and Hosni Mubarak of Egypt to resign and they resigned. The 2008 unrests in Cameroon were aimed at compelling the government and parliament from refraining to amend the constitution and even though it did not work, similar initiatives turned out to be a success in Burkina Faso. It is therefore deeply worrying to repackage these acts, alter their nature and purposely insert them among the list of terrorist activities sanctioned by capital punishment. The sanction provided for by the last paragraph (d) is short, unequivocal and cold: the death penalty. Such a punishment is nothing but a mere attempt by authorities to curtail the civil and political rights of individual citizens notably the freedom of association, expression, opinion and demonstration. In such a context, it is apparent that the anti-terror law in the country seems to be focusing more on civilian populations than the terrorist organisations against which this legislation was enacted. The law of 23 December 2014 has successfully combined terrorist space and civilian space. Consequently, instead of being a security device ensuring peace and security across the country it appears rather as a suppressive tool with the purpose of stripping individual citizens from their rights and legal protection. It can then be rightfully observed that ‘in most cases the violence is associated with authoritarian regimes that desire to hold on to power and will kill indiscriminately to do so.’⁵

The second and third paragraphs of article 2 of the counterterrorism legislation refer to the issues of disruption of the national functioning of public services, delivery of essential services to the public to create a crisis situation among the public and widespread insurrection in the country. These instances cannot amount to terrorist activities but to the fundamental constituents of exceptional circumstances threatening national security. To address such situations, the constitution of Cameroon vested the president of the republic with extensive prerogatives. Article 9 of law N° 96/06 of 18 January 1996 to amend the constitution of 2 June 1972 provides for a state of emergency and so-called state of siege to cope with these categories of crisis. Moreover, the presidential act declaring a state of emergency is an Act of State that is subject neither to parliamentary approval nor to judicial review. Detailed developments regarding the origin, concept and regime of an Act of State in the country are available in a previous issue of this journal.⁶ In addition to article 9 of the constitution, the issues of insurrection and disruption is also framed by law N° 90/047 of 19 December 1990 on the state of emergency. It is therefore hardly understandable why insurrection crisis, demonstrations and disruptions of public services were redesigned and now appear instead as terrorist activities. These types of challenges normally amount to the expression of political tensions and may lead to a regime change and even a revolution. Their purpose is not about terrorising or killing innocent civilian populations as implied by the counterterror law. This may explain why ‘many states have either implemented new nation-

5 *John Davis* (ed.), *Africa and the War on Terrorism*, New-York 2016.

6 *Gerard Emmanuel Kamdem Kamga*, *Starting the Emergency Process: Some Reflections on Presidential Prerogatives in South Africa and Cameroon in Time of Turmoil*, *Verfassung und Recht in Übersee* 49 (2016), p. 91.

al security laws or found new validation for pre-existing emergency legislation by claiming to be responding to the threat of terrorism.⁷ The rationale behind the new label of widespread insurrection and similar unrests as ‘terrorist acts’ is nothing but a mere intimidation and a warning toward trade unionists, political opponents and civil society groups from refraining to initiate contestations and confrontations with the political system. The crucial point to be raised is whether this might be a sustainable technique of governance without any boomerang effect, given that local authorities seem to be ignoring the following warning:

*Terrorism is unlikely ever to end, and formulating a policy based upon a model of ‘war’ is only calculated to allow the government to regard anyone who opposes un-democratic means as unpatriotic. If the government fails to act within the law, it undermines its democratic legitimacy, forfeits public confidence, and damages respect for the criminal justice system.*⁸

In the name of terrorism and security, the meaning, nature and scope of freedoms and public liberties secured in the midst of the 1990s’ wind of democratisation have been redefined at the expenses of peace and individual citizens’ rights. The freedom of press has severely been impaired by public authorities. It is within this framework that in July 2015, Ahmed Abba, a Hausa-language reporter for the French broadcasting media Radio France Internationale (RFI) was arrested by security forces in Maroua in Cameroon’s far north region, where he was reporting on the extremist group Boko Haram. Abba has been detained for months before being taken to the military court in Yaounde where the judicial proceedings began in November 2015 under the new anti-terror law. He was accused of being an accomplice of terrorism by failing to report acts of terrorism to authorities, condoning terrorism, and concealing information in connection with his coverage of attacks by Boko Haram. In response, Abba’s legal team demanded that the trial be scrapped altogether, arguing about the ‘arbitrary and illegal’ character of his detention without access to lawyer and family. In support to Abba, a petition initiated by the French media for his release mentioned the following:

*Today it is completely abnormal to be locked up because one did not provide the police of his country with information. We, journalists, are not police’s auxiliaries. A journalist cannot be locked up because he was in contact with people who are terrorists or are suspected to act against the law.*⁹

7 Richard Ashby Wilson (ed.), *Human Rights in the ‘War on Terror’*, Cambridge 2015.

8 Ibid, p.164-165.

9 RFI, Cameroun: une pétition des journalistes français pour soutenir Ahmed Abba, <http://www.rfi.fr/afrique/20170106-cameroun-journaliste-ahmed-abba-proces-mobilisation-petition-sdj> (last accessed on 20 April 2018).

Following this campaign, Colonel Didier Badjeck, the then head of communication's division in the Ministry of Defence of Cameroon denounced a smear campaign purposely orchestrated by RFI. After the trial was adjourned several times and after the prosecutor's request of death penalty, a sentence of ten years in prison and a fine of FCFA 55 million was pronounced by the military court. Meanwhile, following unrelenting campaigns, Abba was (finally) released from prison on 22 December 2017 after twenty-nine months behind bars.

When it comes to the press freedom, Abba's case has not been the only one framed by the counterterrorism law of 2014. Rodrigue Tongue, journalist working for the local television channel *Canal 2 International*, Félix Cyriaque Ebole Bola, working for the daily newspaper *Mutations* and Baba Wame, lecturer in journalism were also arrested on the ground of the new anti-terror legislation. On 22 January 2016 their trial was opened in the military court, where they were accused of failing to disclose a terrorist act. Such a terrorist act was connected to the attacks perpetrated on 16 November 2013 in an area named Gbiti in the eastern region of Cameroon bordering the Central African Republic; attacks that resulted in seven deaths and an assault on the camp of the Rapid Intervention Battalion (BIR) in Oundjiki on 5 December. The above-mentioned journalists were accused of being in possession of this information and failed to report it to authorities. What is noticeable is that they were charged on the ground of the new anti-terror law enacted in 2014; even though the attacks were perpetrated before such law came into being. This was a violation not only of Cameroon constitution, but also the fundamental principles of law according to which law may not have a retrospective effect. The pressure put on media by the counterterrorism legislation of 23 December 2014 is a fact and it is unfortunate that journalists be among the targets of this legislation. Similarly to the above case of Ahmed Abba, following numerous pressures and condemnations, the three journalists Rodrigue Tongue, Félix Cyriaque Ebole Bola and Baba Wame were acquitted by the military court on 30 October 2017. In so doing, the judicial saga started three years earlier on 28 October 2014 was then brought to an end. Yet, all journalists have not always been as fortunate to escape from the brutality of law enforcement agencies within this particular anti-terror setting where torture and death are sometimes scheduled. I have previously referred to the case of journalist Samuel Wazizi who was arrested in the city of Buea in August 2019 by the police and detained by the army. He was known for openly criticising the government's handling of the crisis in the English speaking regions of the country. After his transfer to the army's headquarter, he was accused of associating with terrorists. Wazizi completely disappeared from people's sight including his family and lawyer for nearly a year with no reference to his whereabouts. It is only in June 2020 that the spokesperson of the army confirmed the death of the journalist while denying allegations that he had been tortured. Wazizi's death that was initially concealed since his arrest was confirmed by authorities only after Cameroon's journalist union revealed that he died as a result of having been tortured by security forces. On 9 June 2020 Cameroon's journalist union initiated demonstrations in the city of Douala to condemn such a gruesome murder. As a result, the police intervened and forcefully drove members of that union out of the streets. Yet, despite the fact that these events were unfolding in the same

time frame characterised by a tense international context and a global condemnation against racism, police brutality under the aegis of the black lives matter movement resulting from the killing of an African American, George Floyd in the United States, no mention was made to Wazizi who had not been suffocated in nine seconds but has been tortured for more than three hundred days and killed by security forces. As a matter of fact, a brutal murder remains a brutal murder irrespective of when, where and how it is carry out. Such discrimination in terms of media coverage and indifference from so-called international community is appalling. Justice is destined for the entire human species, whether rich or poor, black or white. From our collective consciousness, the choice is simple: either all of us will someday enjoy such justice or none of us will enjoy it until such a time that all of us are willing to work together to bring about a better world for everyone.

D. Replication of pre-existing legal framework and escalation of pre-existing sanctions

In this section, I show the extent to which the law of 23 December 2014 on the suppression of acts of terrorism in Cameroon amounts to a mere replication of a pre-existing legal framework dealing with similar issues of national security. The first chapter of the second book of Cameroon Penal Code deals specifically with the notion of state security.¹⁰ Following the provisions of this Code, offences against state security encompass offences against the external security of the state on the one hand,¹¹ and offences against the internal security of the state on the other.¹² The former is about hostility against the fatherland and is sanctioned by the death penalty.¹³ The latter amounts to secession, civil war, spreading of false information, revolution, armed bands and insurrection and is sanctioned by life imprisonment.¹⁴ The link between offences against the external security of the state and terrorism is evident at this level owing to the variety of hostilities that may target the state. The details regarding internal security crises clearly suggest the issues of socio-political disagreements that may arise between the rulers and the ruled in a free and fair democratic society. It is these categories of crises (secession, insurrection, civil war and others) that were recast and reformulated as ‘terrorist acts’ and sanctioned by the death penalty by the counterterrorism legislation.

What is noticeable in the Penal Code provisions on civil war and insurrection for example is the fact that these are sanctioned by life imprisonment. A *contrario*, perpetrators of similar offences that were replicated in the anti-terror law are instead subject to the death penalty. This unnecessary escalation of pre-existing sanctions further exemplifies the hid-

10 Cameroon Penal Code, book 2, Chapter 1, ‘Felonies and misdemeanors against the state.’.

11 Ibid, Section 1.

12 Ibid, Section 2.

13 Ibid, Section 102.

14 Ibid, Section 111, 112, 114, 115 (1).

den purpose of the new legislation, which aimed essentially at curtailing human rights and public liberties, and not to secure peace and security across the country. What is currently referred to as ‘the Anglophone problem’ in Cameroon may, according to the case, be cited as an example in point. In 2016, Amnesty International called on Cameroon government to investigate the use of excessive and unnecessary force that led to the death of between two and four people during a protest in the north western city of Bamenda.¹⁵ A few months later on 18 January 2017 the African Union ‘noted with concern the closing of schools and medical facilities as well as acts of violence, arbitrary arrest and detention of individuals suspected of participating in the demonstrations’ in the northwest and southwest regions of Cameroon.¹⁶ The brutal reprisal was in response to the fact that lawyers, students and teachers have been on strike for weeks, to denounce what they perceive to be the ‘marginalisation of the Anglophone minority.’ As weeks went by, this crisis, which at the time was a civil society based protest moved out of control after been literally hijacked by a few protagonists who were not part of the initial movement. A set of new demands essentially of a political nature ranging from federalism, decentralisation and even secession were then introduced. In response, security forces arrested scores of peoples including the leaders of the initial protests, attorney Felix Agbor Balla, university lecturer Fontem Neba and radio host Mancho Bibixy. The military court in Yaounde indicted them with ‘acts of terrorism, complicity in acts of terrorism, insurrection, rebellion against the state, incitement of civil unrest, propagation of false news and calling for civil war’, offences provided for by the new anti-terror law of 23 December 2014. These developments account for another instance where the government relied on counterterrorism legislation to silence civil society’s demands. Yet, similar demands are often recorded in various parts of the globe without necessarily being considered as national security threats. The imprisonment of the leaders of the contestation did not improve the atmosphere across the region. As the crisis evolved, claims for secession were introduced by a minority that had emerged and was being remotely controlled by some nationals mainly from the diaspora who openly claimed such initiative through TV and social media appearances. Their key argument was and still is about being marginalised by French speaking nationals, so-called Francophone majority. The issue shifted and was now perceived through the prism of a Manichean universe where so-called Francophone people (not the 38-year-old regime) were the roots of all evils experienced by nationals from the English speaking regions. Yet, such an erroneous conception driven by a conscious amnesia, ignores or pretends to ignore the fact that the entire Cameroon population from north to south, from east to west has been living under a neo-colonial and authoritarian system which, when controlling everything from the top down, indiscriminately spreads a wild dictatorship that impacts the life of the whole population irrespective of the

- 15 Amnesty International, Cameroon: Excessive force that led to deaths of protesters must be urgently investigated, <https://www.amnesty.org/en/latest/news/2016/12/cameroon-excessive-force-that-led-to-deaths-of-protesters-must-be-urgently-investigated/> (last accessed on 10 December 2016).
- 16 African Union, AU expresses concern on the situation in Cameroon, <https://au.int/en/pressreleases/20170118-0> (last accessed on 10 July 2020).

language, culture, religion, and sex. It is nothing but rather a Machiavellian manoeuvre for a section of a population to openly blame the other portion on the ground of a language inherited from a *de facto* colonial period, precisely in a context characterised by the rise of decolonial ideology across the continent. The attempt to convey the idea that in Cameroon everything goes well for whoever can speak French (even if the country's Prime Minister, Head of government always comes from the English speaking area) is not only misleading, but hypocritical. Yet, it is essentially thanks to the overwhelming choice of the so-called Francophone majority through the ballots that Ni John Fru Ndi from the northwest region is believed to have been the true victor of the 1992 presidential elections. Since then and for the past three decades, he has remained the head of the opposition in the country's parliament with his party, the Social Democratic Front (SDF) that enjoys a unique popularity across the entire state. At the time, the whole country stood together to claim the stolen victory including through campaigns of civil disobedience, ghost town operations and various boycotts. Despite the fact that the regime succeeded in clinging to the power, the struggle was not about being Anglophone or Francophone, but it was all about the battle for the soul of Cameroon, a worthy and national cause where the peoples merged into one another and marvellously become one entity. Today, by attempting to draw an 'abyssal line' between the citizens of one country, proponents of the artificial confrontation between so-called Francophone and Anglophone contribute to revive a collapsing regime that has long entered into the twilight of its existence. Very few people have unfortunately failed to understand the fact that the current regime in Cameroon has been surviving and renewing itself through the well-known strategy of divide and conquer.¹⁷ Consequently, those who consciously or unconsciously are trapped within the paradigm of dividing and opposing Cameroon nationals, contribute in their unique way (knowingly or unknowingly) to reanimate a collapsing political system.

In their quest for an independent imaginary state, proponents of secession went far so as to take up weapons against security forces. As a result, the region completely shut down with separatists prohibiting pupils, university students and personnel from attending schools and ordinary citizens from running their daily activities. They soon embarked in the business of killing, abducting, beheading and threatening retaliations against those failing to comply. It is within this context that several workers of the Cameroon Development Corporation (CDC) were attacked in the farm and had their hands or fingers amputated. The CDC, an agro-industrial complex that grows, processes and exports crops, is the biggest employer after the state of Cameroon with more than twenty-two thousand workers. It could be a tricky mental and intellectual exercises to attempt to qualify a situation where those who do not share secessionists' view only deserve inhuman and degrading treatment, torture and death. In such a case, one can wonder about the type of society to come, should

17 I have already provided detailed analysis on the conquer and divide strategy by the regime in Cameroon. For further information see *Gerard Emmanuel Kamdem Kamga*, *Technique of empire: colonisation through a state of exception*, *African Studies* 78 (2019).

those currently involved in armed fighting against a sovereign entity succeed in replicating an entity on their own. This is worrisome and one concern is to figure out how Cameroon authorities are supposed to react in such a situation.

After several adjournments of the trial of those arrested and incarcerated in the capital Yaounde, in a decision on 30 November 2018, president Biya setup the National Committee on Disarmament, Demobilisation and Reintegration (NCDDR) of former combatants of Boko Haram in the northern region and armed groups of the northwest and southwest regions. The purpose of this Committee is to disarm those who surrender and provide them with help, social and professional reinsertions and training in rehabilitation centres across the country. The first report by this Committee published on 7 May 2019 shows that hundred and sixty-five people across the country who have been fighting against the security forces have laid down their weapons and surrendered. This include hundred and nine militants in the far north region where Boko Haram has been active and fifty-six separatists from the northwest and southwest regions. President Biya (not the state prosecutor) later called a halt to the prosecution of two hundred of eighty-nine people who were then followed by their release from prison. This initiative did not prevent the situation from further degenerating into a wild atmosphere characterised by a power *vacuum*. The enumeration of atrocities perpetrated by both sides and their condemnation by organisations such as Amnesty International, Human Rights Watch and International Crisis Group did not change much to the situation. According to Crisis Group, one thousand eight hundred and fifty dead have been recorded, with around thirty-five thousand established in the neighbouring Nigeria as refugees.¹⁸ The major portion of the population of the region fled to the so-called Francophone area to seek for shelter and security. This internal migration confirms my initial assumption that there is neither tension nor confrontation between communities in Cameroon. The report by Crisis Group which does not hesitate to place a sovereign entity and secessionist groups on an equal footing, raises more questions than it provides answers. As a suggestion, Crisis Group calls to the International Criminal Court (ICC) to put forward its intention to open preliminary investigations on Cameroon. Yet, the country has not even signed the Rome Statute and therefore, such a suggestion is in my sense naïve; unless Crisis Group is (also) of the view that the ICC (which according to a former US National Security Advisor is an illegitimate court) has ‘automatic’ jurisdiction especially when it comes to African states. It will be counterproductive to advocate for such a conception especially in light of recent developments between the United States and the ICC. In 2019 the US revoked the ICC prosecutor’s visa in retaliation against the ICC’s intention to open investigations on war crimes committed by the US army in Afghanistan and Israel Defense Forces in Palestine. In May 2020, Secretary of State Mike Pompeo warned about ‘exact consequences’ should the ICC ‘continue down its current course’. More recently, on 11 June

18 International Crisis Group, Cameroon’s Anglophone Crisis: How to Get to Talks?, <https://www.crisisgroup.org/africa/central-africa/cameroon/272-crise-anglophone-au-cameroun-comment-arriver-aux-pourparlers> (last accessed on 6 May 2019).

2020 President Donald Trump issued an executive order authorising asset freezes and family travel bans against ICC officials and others who may be involved in such investigations. If for some reasons, the ICC succeeds to complete these investigations, maybe this institution will be qualified to look into Cameroon's situation as suggested by Crisis Group. However, this is not likely to happen anytime soon given that in a recent decision in July 2020 grounded on articles 12 and 13 of the Rome Statute, the ICC expressly declined its competence to look into Cameroon's situation. This decision was addressed to Leonel Beteck Kome a human rights activist who, in May 2019 launched a complain against president Biya for the atrocities perpetrated in the northwest and south west regions of the state.

The situation in the English speaking regions has since degenerated into chaos and uncontrolled violence resulting in numerous dead and displaced people. There is a complete confusion as some groups of separatists became fractionalised and disintegrated into smaller factions characterised by conflicting interests with everything falling out of control. As a result, civilian populations find themselves in a no man's land where *Homo homini lupus est*. My assessment of the situation is confirmed by the content of a recent press released on May 2020 by Mancho Bibixy and Ngalim Felix, two direct protagonists of the crisis who have been serving their sentence in Kondengui Central Prison in Yaounde. The two men at the origin of so-called Coffin Revolution in 2016 that paved the way to the strike by teachers, lawyers and students in the two English speaking regions of Cameroon noted that the overall goal of their movement was to make life better for the population but unfortunately, this movement has been hijacked by people without any political or development agenda. As they put it, the actions of such people 'have rather brought untold pain and sufferings on the population we were fighting for'.¹⁹ The two men grew concerned about the ongoing kidnapping and torture for ransom, denouncing even the kidnapping of lawyers defending the family members of political prisoners as well as children of well-known supporters of the movement. In the same vein, they point fingers at those hijackers who attack and sometimes killed Fulani Communities, steal cattle, attack educational institutions, taking teachers and students as hostages, setting fire on school buildings, attack medical staff, ambulances and even medical institutions.²⁰ Mancho and Ngalim further made reference to these 'hijackers and bandits' who have desecrated traditional palaces and destroyed institutions held sacred for many centuries, by showing no respect for Fons, Chiefs and other traditional title holders; these hijackers and bandits who interrupt wedding and funeral ceremonies, demanding for money before such ceremonies could continue, setting up illegal road blocks, extorting money from drivers and passengers and imposing their own taxes in some areas and calling people and demanding for money, threatening to burn down their houses if they

19 Press release available at <https://www.facebook.com/CAMEROONNEWSAGENCY/posts/detained-mancho-bibixy-and-galim-felix-initiators-of-the-coffin-revolution-cauti/2928414253938273/> (last accessed on 30 June 2019).

20 Ibid.

fail to pay the amount demanded.²¹ It is noteworthy that in a bid to challenge the state entity, some groups of separatists along with their key sponsors enjoying life hidden in foreign states went far so as to recruit foreign mercenaries as confirmed by the latest report of International Crisis Group on the situation.²² Mancho and Ngalim also claim to have identified these bandits including among others ‘under-ground groups set up and sponsored by certain politicians with the aim of either using them to achieve political goals or to weaken the political struggle by genuine freedom fighters.’²³ In itself, the press release is a clear warning toward these people to stop these atrocities. Otherwise ‘if they fail to stop their actions after the thirty (30) days ultimatum, we will carry out unannounced actions to defend our people.’²⁴

A more recent instance where the provisions of the law of 23 December 2014 were implemented occurred after the latest presidential election held in Cameroon on 7 October 2018. The incumbent president Biya, in power since 1982, was declared victor by his Constitutional Council,²⁵ the only institution invested with the authority to proclaim such results. The opposition candidate, Maurice Kamto who was declared runner-up raised serious concerns regarding the results that appeared to be highly likely the object of massive frauds organised by the Cameroon People Democratic Movement (CPDM), the ruling party. Kamto went on to appeal the results before the Constitutional Council, but this did not change anything. On 26 January 2019 members and supporters of the Cameroon Renaissance Movement (CRM), the party headed by Kamto, organised peaceful protests on the streets to express their disagreements about what they referred to as an ‘electoral hold-up’ and to reaffirm the victory of their candidate. In response, the government that has systematically been banning all demonstrations across the country, except those initiated by the ruling CPDM, deployed a military arsenal to brutally suppress the gatherings on the streets. The images of the police and army shooting on empty-handed protesters with live bullets went viral on social media and soon stimulated anger abroad. As a result, the embassies of Cameroon in Berlin and Paris were soon wrecked by an angry crowd comprising Cameroon nationals of the diaspora. Back in Cameroon, some of the wounded protesters admitted to the emergency room for treatment were forcibly removed from their hospital’s bed nightly and taken to an undisclosed location by security forces. Overall, nearly two hundred protesters were arrested and imprisoned without charges. Similarly, in the night of 28 January, Kamto was arrested without warrant along with members of his team, transferred to Yaounde and held in a military compound for two weeks before being transferred to a genuine penitentiary following an order from the military court. During the night of 12 to 13

21 Ibid.

22 International Crisis Group, note 18.

23 Press release, note 19.

24 Ibid.

25 In a recent publication, I provided insights into the political interference between the executive office and judicial functions in the country. See *Gerard Emmanuel Kamdem Kanga*, The political (in) dependence of the judiciary in Cameroon: fact or fiction?, *Africa Review* 11 (2019).

February 2019 Kamto, members of his team including Christian Penda Ekoka, Paul Eric Kingue, Albert Dzongang, twenty-eight sympathisers and activists appeared before the military court and were indicted for rebellion, insurrection and hostility against the fatherland in line with the provisions of the counterterrorism legislation of 23 December 2014. These events exemplify once again how the enjoyment of human rights and fundamental freedoms by citizens can be suppressed in a society claiming to be grounded on human rights and the rule of law.

Since the enactment of the counterterror law, it is hardly possible to distinguish between individual citizens exercising their constitutional rights by disagreeing with the regime and terrorist groups such as for instance Boko Haram that has been threatening the national security of the state. Instead, since the enactment of the counterterrorism legislation, the situation across the country has worsened compared to how it was before. Recently, in June 2020 the Norwegian Refugee Council (NRC) released its 2019 index of the world's 10 most neglected displacement crises in the world with Cameroon on top of such countries.²⁶ The enactment of the law of 2014 resulted in propelling Cameroon's institutions in a state of suspension where civilians are now compelled into Kafkaesque trials driven by fearsome military judges. Through a resolution of April 2019, the European Parliament (the Parliament) raised concerns about the climate in the northwest and southwest regions and called for a peaceful solution to the crisis. It further condemned the arrest of Maurice Kamto, his team and other political activists, requested for their release and reminded Cameroon's authorities about their international commitments in terms of human rights. The Parliament went on to coin that military courts should not have competence to trial civilians. Prior to this resolution that also threatened to bring the matter to the United Nations Security Council, the United States and the African Union already grew concerned regarding the atmosphere in the country. Following this, on 10 September 2019 president Biya in a rare televised appearance announced to the nation, the holding of a *Grand Dialogue National* [Major National Dialogue] in a bid to restore the *status quo ante* not only in the English speaking regions but also to look into the concerns raised in other areas of Cameroon. This event held in Yaounde from 30 September to 4 October 2019 led to five hundred and thirty-three people arrested in connection with the crisis in the northwest and southwest being released after president Biya (not the state prosecutor) decided to drop all charges against them. It is within these same circumstances that Maurice Kamto and members of his team along with some sympathisers were subsequently released from jail. Notwithstanding, the Major National Dialogue seemed to have resulted in more divisions and controversies for its lack of representations of various stakeholders.

It is a fact that the aim of the new counterterrorism legislation is to brutally suppress peaceful and legitimate protests instead of tackling the real causes of the successful expansion of Boko Haram activities in the northern region of Cameroon. To label protesting citi-

26 State Fragility Index And Matrix 2018, <http://www.systemicpeace.org/inscr/SFImatrix2018c.pdf>. (last accessed on 20 June 2020).

zens ‘terrorists’ and threaten them by brandishing the ‘new’ death penalty is a poor initiative from public authorities. As a reminder, the death penalty is not new in the country’s legal architecture. I have showed in the previous developments that prior to the enactment of the law of 23 December 2014 on the suppression of terrorist acts, the death penalty was already part of the legal arsenal against threats to the state security.²⁷ The fact for the current regime to replicate the controversial death penalty amounts to nothing but a well-designed strategy of killing two birds with one stone. The psychological effect of such manoeuvre can be considerable owing to the fact that people willing to organise and take part to civil unrests and similar acts of political disagreements to challenge the political system might be reluctant to do so. The rationale behind this move is the fact that there persists an uncertainty as to know whether such civil protests could be qualified as offences framed by the Penal Code and then fall under the competence of an ordinary court or labelled ‘terrorist acts’ subject to the military court and sanctioned by capital punishment.

E. Inconsistencies between the counterterrorism legislation and international and domestic standards

The law of 23 December 2014 on the suppression of acts of terrorism claims to derive its legal character both from the OAU Convention on the Prevention and Combating of Terrorism and from Resolution 2718 of the United Nations Security Council of 24 September 2014. Yet the anti-terror legislation significantly contradicts this Resolution as evidenced by the opening words of such resolution:

[...] Member States must ensure that any measures taken to counter-terrorism comply with all their obligations under international law, in particular international human rights law, international refugee law, and international humanitarian law, underscoring that respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures, and are an essential part of a successful counter-terrorism effort and notes the importance of respect for the rule of law so as to effectively prevent and combat terrorism, and noting that failure to comply with these and other international obligations, including under the Charter of the United Nations, is one of the factors contributing to increased radicalization and fosters a sense of impunity.

In light of the above quote, the inconsistencies between the recent counterterrorism law in Cameroon and Resolution 2718 of the Security Council are axiomatic. The former which was deemed a measure to counter terrorism and violent extremism appeared not to be complying with human rights requirements and fundamental freedoms as prescribed by the latter. By introducing and replicating the death penalty, supreme sanction for both terrorist acts

27 See Section 102 of the Penal Code on offences against the external security of the state notably hostility against the fatherland that is sanctioned by capital punishment.

and non-terrorist activities, the law of 23 December 2014 clearly undermines various international and regional instruments on human rights ratified by the country. These include among others the Universal Declaration of Human Rights, the UN Charter, the International Covenant on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the African Charter on human and peoples' rights.

Except Resolution 2718 of the Security Council, the law of 23 December 2014 is in clear contradiction with the supreme law of Cameroon. It violates the fundamental rights enshrined in the constitution especially the right to life which is an absolute right. By merging the borders of both terrorism and activism, with the death penalty as the sentence for people exercising their freedom of expression, association, opinion and their rights to protest, the law of 23 December 2014 is not only unconstitutional (these rights are guaranteed by the constitution), but it also redefines the terms of the social contract. Moreover, despite the enactment of a controversial legal framework to tackle terrorism, there are recorded cases where in the name of fighting terrorism, civilian populations have not only been the victims of various abuses by security forces but have been tortured and unlawfully detained and even subjected to extrajudicial killings.²⁸ This is exactly what transpired in the above mentioned case of journalist Samuel Wazizi who was unlawfully arrested, detained, tortured for more than three hundred days and then finally killed by security forces who accused him of being a member of a terrorist organisation.

The principle of presumption of innocence organised by the Penal Code is also questioned by the counterterrorism legislation. Under chapter 3 on 'special provisions', section 11 of this legislation reads that for the purpose of this law, the duration of remand in custody shall be 15 days renewable upon the authorisation of the State Prosecutor. In other words, unlikely to the provisions of the Penal Code, any person arrested on suspicion of terrorism can be held indefinitely without judgment since the law fails to limit the number of renewals that may be granted. This is not only inconsistent with the Penal Code but it also contradicts the constitution in its preamble that reinforces the presumption of innocence by providing that every person is presumed innocent until found guilty during a hearing conducted in strict compliance with the rights of the defence.

F. Conclusion

The purpose of this paper was to provide insights into the recent counterterrorism legislation in Cameroon. I have showed that this draconian piece of legislation was designed first-

28 As reported by Amnesty International, on 27 December 2014 early in the morning, Cameroon security forces sealed off the adjacent villages of Magdeme and Doublé in the Mayo Sava department of the Far North region to conduct a cordon and search operation. This operation resulted in nine unlawful killings, the widespread destruction of property, hundreds of arbitrary arrests and unlawful detentions in circumstances that may amount to enforced disappearances, and the death in custody of at least 25 people – and possibly many more. Amnesty International, note 2, p.41.

ly, to protect the regime against its own people. Under the pretext of fighting terrorism notably the extremist group Boko Haram in the northern region of the country, local authorities have been clamping down on freedoms of the press, demonstration, expression and association. Journalists and political challengers of the regime have been arrested, jailed and indicted for the crimes of terrorism, sedition and threatened with the death penalty following Kafkaesque trials driven by a military court entrusted with the power to sentence civilians. Through the law of 23 December 2014 the country has successfully been placed under a *de facto* state of siege where public liberties and the rule of law have been brought to a standstill. Whereas the events unfolding in Cameroon both in the French and English speaking regions are unfortunate, the lesson to be learnt is that violence, no matter who is at its origin, is likely to contribute to fuel an already critical situation. The fact for public authorities to unleash brutal measures in response to the initial civil society based protests led by students, teachers and lawyers in the northwest and southwest regions was a regrettable move. Similarly, the reprisal following the presidential elections of October 2018 with the arrest and imprisonment by a military court of political opponents and activists is symptomatic of the authoritarian system in place in Cameroon. The implementation of the counterterrorism law in both situations appears to have failed to produce the intended effect, that is, to paradoxically restore peace through violence. It is equally unfortunate that a few nationals backed by foreign mercenaries and claiming to be acting on behalf of the entire populations of the northwest and southwest, ended up driving the region into an unspeakable violence where children, women, elderly people and the youth are paying the ultimate price. This proves enough that attempts to duplicate sovereignty is likely to result in bloodshed, for sovereignty cannot be replicated but only expand itself.

Overall, the current crisis of trust between the government and communities mirrors the tactic and result that terrorist organisations generally seek and that allow them to raise the level of attacks. It is my contention that the counterterrorism legislation of December 2014 that was deemed to provide more security appeared instead to have been a suppressive arsenal at the hands of the ruling class against the enemy from within. This has contributed to radicalise peaceful sections of the population, which until then had nothing in common with terrorist organisations. Anger, frustration, discrimination, poverty, illiteracy, injustice are fertile grounds for radicalisation on which terrorist groups capitalise on to target new recruits. In the current hyper connected world with the rise of internet and other social media, the borders of the state have literally collapsed and a new platform has emerged; a platform which appears to be an arena of merciless battles between governments, terrorists organisations and other criminal networks to win the hearts and minds of innocent people. It is still time to discard suppressive patterns and embrace a new paradigm that focuses in building a truly secured society, a society of peace and justice, a society for all.